

Title 8. California Code of Regulations
Division 1, Chapter 6,
Subchapter 11. Car Washing and Polishing
Sections 13680 through 13693

13680. Definitions.

The following definitions shall apply to the provisions contained in this subchapter 11:

(a) "Business days" has the same meaning as defined in Section 9 of the California Civil Code.

(b) "Branch" means a separate location of the employer's business where employees carry out car washing and polishing operations as specified in subdivision (a) of Labor Code Section 2051, including the employer's main or central location.

(c) "Damaged" means the suffering of a loss or diminution of what is the employee's own by reason of the employer's failure to pay wages and penalties.

(d) "Other related damages" means a loss suffered by an employee or diminution of what is the employee's own by reason of some action or inaction on the part of the employer other than the employer's failure to pay wages and penalties, and includes interest on wages, fringe benefits, gratuities, reporting time pay, reimbursable business expenses, and the one hour of pay an employer is required to pay an employee if the employer fails to provide the employee with a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission. "Other related damages" includes only those damages or losses for which recovery can be sought pursuant to laws enforced by the Labor Commissioner, and excludes all others.

(e) "Registration packet" means the "Car Washing and Polishing Registration Application [DLSE 666 (9/05)] which is hereby incorporated by reference and the group of documents and items listed below in (e)(1) through (14) as applicable. The registration packet shall be delivered to the Labor Commissioner in order for the application to be processed by the Labor Commissioner.

(1) A surety bond as specified in subdivisions (b)(1), (2) and (3) of section 13682 of this subchapter 11;

(2) Proof of compliance with the local government's business licensing or regional regulatory requirements;

(3) Annual registration fee as set forth in subdivision (a) of section 13683 of this subchapter 11;

(4) Annual assessment as set forth in subdivision (c) of section 13683 of this subchapter 11;

(5) A valid workers' compensation insurance certificate or a copy of the certificate from the Director of the Department of Industrial Relations consenting to the applicant being self insured;

(6) A copy of the signed contract between applicant and the employee leasing company, if the applicant intends to contract with an employee leasing company as the employer;

(7) A current workers' compensation insurance certificate provided by the employee leasing company, if the applicant intends to contract with an employee leasing company as the employer;

(8) A copy of the fictitious business name statement(s) applicant uses or intends to use;

(9) A copy of applicant's state employer identification number (SEIN) or a copy of applicant's application for a SEIN;

(10) A copy of applicant's federal employer identification number (FEIN) or a copy of applicant's application for a FEIN;

- (11) A copy of the articles of incorporation, if a corporation;
- (12) A copy of the statement of information by a domestic stock corporation, if a corporation;
- (13) A copy of the articles of organization, if a limited liability company; and
- (14) A sample form of the contract and the 24-hour cancellation notice applicant uses or intends to use, if an employee leasing company.

NOTE: Authority cited: Section 55, 59, 95, 98.8, Labor Code. Reference: Sections 2055(b)(1), 2059(a) and (b), 2061(a)(4), and 2065(a)(2), Labor Code.

13681. Recordkeeping.

(a) An employer engaged in the business of car washing and polishing shall keep accurate records as required by Labor Code Sections 226, 1174, and 2052, and any applicable order of the Industrial Welfare Commission. These records shall be maintained for at least three years, except for the records required under Section 1174 which must be kept for not less than two years, at the place of employment or at a central location within the State of California, and upon written or oral request from the Labor Commissioner, or his or her agents, shall be made available for inspection or copying, or both.

(b) Failure to provide the Labor Commissioner with all of the requested records within ten calendar days after the date of a request, or providing records that are falsified, constitutes grounds for suspension or revocation of an employer's registration, or denial of an employer's application for registration.

NOTE: Authority cited: Sections 55, 59, 90.5, 95, 98.8, and 2053, Labor Code. Reference: Sections 226, 1174, and 2052, Labor Code.

13682. Conditions for Registration, Initial and Renewal.

The Labor Commissioner may not register an employer, either initially or as a renewal, until the employer fully satisfies all conditions of registration, including the following:

(a) The employer completes, signs, and submits the application form provided by the Labor Commissioner, "Car Washing and Polishing Registration Application" [DLSE 666 (09/05)], which is hereby incorporated by reference. The employer shall sign the application and certify, under penalty of perjury, that the information he, she, or it has provided on the application form and in any supplementary documents or information submitted by the employer in support of the application is true and correct. Information required on the application includes the following:

(1) Whether the applicant is permissively self-insured against liability to pay workers' compensation insurance claims as described in subdivision(d)(1) of this section;

(2) An indication as to whether the employer's form of legal entity is one of the following:

(A) Sole proprietorship;

(B) General partnership;

(C) Limited partnership;

(D) Limited liability company; or,

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(E) Corporation;

(3) The residential address and home telephone number of every person listed on the form, “Car Washing and Polishing Registration Application” [DLSE 666 (09/05)] as having any one of the following positions, titles, responsibilities, or interests:

(A) Sole proprietor;

(B) General partner;

(C) Limited partner;

(D) Limited liability company member;

(E) Corporate officer;

(F) A person who exercises management responsibility in the employer’s business, regardless of the form of legal entity; or,

(G) A person, except bona fide employees, who has a financial interest of 10 percent or more in the employer’s business, regardless of the form of legal entity.

(4) If a corporation or limited liability company, the name and business address of the agent for service of process;

(5) Whether the employer or any person having a position, title, responsibility, or interest identified in subparagraphs (A) through (G) of paragraph (3) of subdivision (a) of this section and who is so identified on the form “Car Washing and Polishing Registration Application” [DLSE 666 (09/05)] owes an employee any unpaid wages, and if so, the employee’s name, residential address, residential telephone number, amount of wages owed, and a description of any existing payment arrangements;

(6) Whether the employer or any person having a position, title, responsibility, or interest identified in subparagraphs (A) through (G) of paragraph (3) of subdivision (a) of this section and who is so identified on the form “Car Washing and Polishing Registration Application” [DLSE 666 (09/05)] has any unpaid judgments outstanding, and if so, the name, address and telephone number of the judgment creditor, the amount owed, and a description of any existing payment arrangements;

(7) Whether the employer or any person having a position, title, responsibility, or interest identified in subparagraphs (A) through (G) of paragraph (3) of subdivision (a) of this section and who is so identified on the form “Car Washing and Polishing Registration Application” [DLSE 666 (09/05)] has an outstanding lien or lawsuit pending in court against him, her, or it, and if so, the name, address and telephone number of the lienholder or opposing party, the type of lien or nature of the lawsuit, the location of the court where the case is pending, and the current status of the lien or lawsuit;

(8) Whether the employer or any person having a position, title, responsibility, or interest identified in subparagraphs (A) through (G) of paragraph (3) of subdivision (a) of this section and who is so identified on the form “Car Washing and Polishing Registration Application” [DLSE 666 (09/05)] owes any payroll taxes, personal, partnership, or corporate income taxes, social security taxes, or disability insurance contributions, and if so, the type of tax or contribution owed, the agency to whom the tax or contribution is owed, the amount owed, and a description of any payment arrangements;

(9) Whether the employer or any person having a position, title, responsibility or interest identified in subparagraphs (A) through (G) of paragraph (3) of subdivision (a) of this section and who is so identified on the form “Car Washing and Polishing Registration Application” [DLSE 666 (09/05)] has ever been cited or assessed a penalty for violating any provision of the California Labor Code or an order of the Industrial Welfare Commission regulating wages,

hours and working conditions, and if so, the name of the person or business, or both, that was cited or assessed, the date, nature, and amount of the citation or assessment, the disposition of the citation or assessment, if any, whether or not an appeal challenging the citation or assessment was filed, and if so, whether the citation or assessment was upheld on appeal, and if upheld, whether the citation or assessment has been paid, and if paid, the date on which it was paid;

(b) The employer obtains a surety bond ensuring the payment of wages, interest on wages, gratuities, and fringe benefits of its employees.

(1) Except as provided in paragraph (3) of subdivision (b) of this section, the bond shall be in the principal sum equal to fifteen thousand dollars (\$15,000.00).

(2) The bond must be issued by a surety company licensed to do business in the State of California, and the original bond must be filed with the Labor Commissioner along with the application for registration. The bond must be in favor of, and payable to the "People of the State of California," and be for the benefit of any employee damaged by his or her employer's failure to pay wages, interest on wages, or fringe benefits, or damaged by a violation of Labor Code Section 351 (gratuities) or 353 (accurate record keeping of gratuities), or both. The bond shall be on a form provided by the Labor Commissioner, "Car Wash Bond" [DLSE 668 (09/05)], which is hereby incorporated by reference.

(3) The Labor Commissioner may determine that the principal sum of the surety bond be an amount greater than that described in paragraph (1) of subdivision (b) of this section. If the Labor Commissioner makes such a determination, he or she will serve written notice of the increased amount on the employer at least 30 calendar days prior to the date. Service of the notice may be by regular first-class mail. Factors the Labor Commissioner may consider in determining that a surety bond be in an amount greater than that described in paragraph (1) of subdivision (b) of this section include, history of violations including matters such as wage claims, orders, decisions, or awards of the Labor Commissioner, final determinations of the Labor Commissioner in retaliation or discrimination complaints, and final judgments of any type against the employer, and the size of the employer's business, including number of employees and/or branch locations.

(c) The employer presents the Labor Commissioner, along with the application for registration, with proof of compliance with the local government's business licensing or regional regulatory requirements. For purposes of this subdivision, "proof of compliance with the local government's business licensing or regional regulatory requirements" includes a copy of the employer's business license issued by the local government's business licensing or regional regulatory authority, or both, and such other licenses or permits required by those authorities in order for the employer to operate a car washing and polishing business in that jurisdiction.

(d) The employer presents the Labor Commissioner along with the application for registration with either of the following:

(1) A copy of the certificate from the Director of the Department of Industrial Relations consenting to the employer being self-insured against liability to pay compensation under the State's workers' compensation laws either as an individual employer, or as one employer in a group of employers; or,

(2) A certificate of insurance evidencing that a current workers' compensation insurance policy issued by an insurance company licensed to do business in the State of California is in effect for its employees.

(e) The employer completes and submits to the Internal Revenue Service, the form entitled, "Tax Information Authorization." Form 8821 (4/04), Department of Treasury, Internal Revenue Service. The applicant must submit the completed form to the address of the Internal Revenue Service specified on that form. The Labor Commissioner will provide this form to all persons who are sent the "Car Washing and Polishing Registration Application" [DLSE 666 (09/05)] or to any person who makes a written or oral request to the office of the Labor Commissioner for a copy of Form 8821 (4/04).

(f) The employer presents the Labor Commissioner, along with the application for registration, with payment of the annual registration fee and annual assessment established pursuant to Labor Code subsections 2059(a) and (b), respectively.

(g) The employer has fully complied with any citation issued by the Labor Commissioner after the citation is final and has been served on the employer.

(h) The employer presents the Labor Commissioner, along with the application for registration, with a complete registration packet.

NOTE: Authority cited: Sections 55, 59, 95, and 98.8, Labor Code. Reference: Sections 2054, 2055, 2059, 2060, 2061, and 2062, Labor Code.

13683. Annual Registration Fee and Assessment; Proof of Registration.

(a) An employer shall pay to the Labor Commissioner an annual registration fee of two hundred and fifty (\$250.00) for each branch the employer operates.

(b) The Labor Commissioner may periodically adjust the registration fee, pursuant to the Administrative Procedure Act, for inflation to ensure that the fee is sufficient to fund all costs to administer and enforce the provisions of part 8.5 of Division 2 of the Labor Code, Section 2050, et seq.

(c) In addition to the annual registration fee specified in subdivision (a) of this section, the employer shall pay to the Labor Commissioner an annual assessment of fifty dollars (\$50.00) for each branch the employer operates.

(d) For employers who operate multiple branches, the Labor Commissioner will issue an official Division of Labor Standards Enforcement certificate of registration for each branch registered.

NOTE: Authority cited: Sections 55, 59, 95, and 98.8, Labor Code. Reference: Sections 2054, 2055(d), 2059(a) and (b), 2057, and 2061(b), Labor Code.

13684. Registration, Initial and Renewal.

(a) Except as may be provided in subsection (d) of this section with respect to the first renewal of a registration, an employer shall register with the Labor Commissioner annually.

(b) To register, an employer must submit a completed and signed application and registration packet (one application and packet for all branches) to the Labor Commissioner. Commencing with the effective date of this subchapter 11 and including the 209 calendar days

that follow that date (for a total of 210 days), applications for registration shall be submitted according to the following schedule:

(1) For a branch located in the County of Los Angeles, the employer shall submit its application and registration packet to the Labor Commissioner no later than 30 calendar days after the effective date of this section.

(2) Except as provided in subdivision (c) of this section, for a branch located in the County of Orange, the employer shall submit its application and registration packet to the Labor Commissioner no earlier than 61 calendar days, and no later than 90 calendar days after the effective date of this section.

(3) Except as provided in subdivision (c) of this section, for a branch located in the County of San Diego, the employer shall submit its application and registration packet to the Labor Commissioner no earlier than 91 calendar days, and no later than 120 calendar days after the effective date of this section.

(4) Except as provided in subdivision (c) of this section, for a branch located in the County of Riverside or San Bernardino, the employer shall submit its application and registration packet to the Labor Commissioner no earlier than 121 calendar days, and no later than 150 calendar days after the effective date of this section.

(5) Except as provided in subdivision (c) of this section, for a branch located in the County of Santa Clara, Alameda, Sacramento, Ventura, Fresno, or Contra Costa, the employer shall submit its application and registration packet to the Labor Commissioner no earlier than 151 calendar days, and no later than 180 calendar days after the effective date of this section.

(6) Except as provided in subdivision (c) of this section, for a branch located in a county other than those specified in (1) through (5) above of this subdivision (b), the employer shall submit its application and registration packet to the Labor Commissioner no earlier than 181 calendar days, and no later than 210 calendar days after the effective date of this section.

(c) If an employer operates multiple branches and any of them are located in different counties, the employer shall submit its application and registration packet to the Labor Commissioner during the time period specified for the branch requiring the earliest submission as set forth in paragraphs (1) through (6) of subdivision (b) of this section.

(d) Except as otherwise provided by paragraph (1) of this subdivision (d), the registration issued by the Labor Commissioner will be valid for a period of one year.

(1) In order to distribute registration dates evenly over the year, the Labor Commissioner may, with respect to the time period for the first renewal of a registration only, shorten to less than 12 months or lengthen to not more than 18 months the period of the registration, and prorate the annual fees accordingly.

(2) If the period of the registration for the first renewal is either shortened or lengthened, the Labor Commissioner shall set subsequent renewals at yearly intervals.

NOTE: Authority cited: Sections 55, 59, 95, and 98.8, Labor Code. Reference: Section 2054, Labor Code.

13685. Transfer of a Registration Prohibited.

(a) An employer may not transfer its registration to any other person.

(b) For purposes of this section, “person” includes an individual, association, organization, partnership, joint venture, business trust, limited liability company, corporation, or private entity of any character.

NOTE: Authority cited: Sections 55, 59, 95, and 98.8, Labor Code. Reference: Sections 2054, 2055(d), 2059(a) and (b), and 2061(b), Labor Code.

13686. Registration Void. When.

(a) An employer’s registration is void when:

(1) The employer ceases engaging in the business of car washing and polishing.

(2) The employer changes its form of legal entity.

(3) The employer transfers its registration.

(4) The Labor Commissioner revokes an employer’s registration.

(b) Upon the voidance of a registration, the employer shall immediately surrender and return to the Labor Commissioner the certificate of registration for each branch location.

(c) If voidance of an employer’s registration is due to a change of legal entity, the new legal entity (employer) must submit a complete registration packet to the Labor Commissioner and meet all of the conditions of registration set forth in Section 13682 of this subchapter 11, including payment of the annual registration fee and assessment, in order for a new certificate of registration to be issued.

NOTE: Authority cited: Sections 55, 59, 95, and 98.8, Labor Code. Reference: Sections 2054, 2055(d), 2059(a) and (b), and 2061(b), Labor Code.

13687. Failure to Obtain Tax Clearance.

An employer’s failure to obtain a tax clearance from the Internal Revenue Service constitutes a ground for the Labor Commissioner to deny an application for registration, including a renewal.

NOTE: Authority cited: Sections 55, 59, 95, and 98.8, Labor Code. Reference: Section 2054, Labor Code.

13688. Temporary Registration.

(a) If in submitting an application for registration, including a renewal, the Labor Commissioner determines that the Internal Revenue Service has issued the employer a temporary tax clearance instead of a full tax clearance, the Labor Commissioner may issue the employer a temporary registration that runs concurrently with the temporary tax clearance. The temporary registration shall expire at the same time the temporary tax clearance expires.

(b) If, following the issuance of a temporary registration the Labor Commissioner issues the employer a regular registration, the period of time during which the temporary registration was in effect shall be applied to and counted against the time period for the regular registration.

NOTE: Authority cited: Sections 55, 59, 95, and 98.8, Labor Code. Reference: Section 2054, Labor Code.

13689. Citation for Failure to Register.

The Labor Commissioner may cite an employer and impose a civil fine if, upon inspection or investigation he or she determines that the employer has failed to register pursuant to Labor Code Section 2054. The citation may be served personally or by registered mail in accordance with subdivision (c) of Government Code Section 11505. A citation must be in writing and describe the nature of the violation, including reference to the statutory provision allegedly violated.

NOTE: Authority cited: Sections 55, 59, 95, and 98.8, Labor Code. Reference: Sections 2054, 2060, and 2064, Labor Code.

13690. Failure to Comply with Citation for Failure to Register.

An employer's failure to comply with a citation containing an assessment issued pursuant to Labor Code Section 2064 after the citation is final and has been served on the employer, constitutes a ground for the Labor Commissioner to deny an application for registration, including a renewal.

NOTE: Authority cited: Sections 55, 59, 95, and 98.8, Labor Code. Reference: Section 2064, Labor Code.

13691. Appeal of Citation for Failure to Register.

(a) If an employer served with a citation pursuant to Labor Code Section 2064 desires to contest the citation or the proposed assessment of the civil fine therefore, he, she, or it must, within 15 business days after issuance of the citation, notify in writing the office of the Labor Commissioner that appears on the citation of his, her, or its request for an informal hearing. The proceeding under this section is an informal hearing conducted in accordance with the adjudication provisions of the Administrative Procedure Act, Chapters 4.5 and 5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code. Except as provided in subdivision (b) of this section, the Labor Commissioner, or the deputy or agent he or she appoints as the presiding officer, shall, within 30 calendar days after the Labor Commissioner's receipt of the employer's request for an informal hearing, hold a hearing at the conclusion of which a decision is made and the citation or proposed assessment of a civil fine is either affirmed, modified, or dismissed. The decision of the Labor Commissioner consists of a notice of findings, findings, and order, which shall be served on all parties to the hearing within 15 calendar days after the hearing by regular first-class mail at the last known address of the party on file with the Labor Commissioner. Service shall be completed pursuant to Section

1013 of the California Code of Civil Procedure. Any amount found due by the Labor Commissioner as a result of a hearing is due and payable 45 calendar days after notice of the findings and written findings and order have been mailed to the party assessed. A party who is assessed a fine may take a writ of mandate from the findings to the appropriate superior court, as long as he, she, or it agrees to pay any judgment and costs ultimately rendered by the court against him, her, or it for the assessment. To take a writ of mandate, an aggrieved party shall file the writ within 45 calendar days after service of the notice of findings, findings, and order thereon.

(b) The Labor Commissioner or presiding officer for good cause may extend the 30-calendar day period for holding a hearing described in subdivision (a) of this section. "Good cause" is determined by the Labor Commissioner or presiding deputy.

(c) If findings and the order thereon affirm or modify a citation or the proposed assessment of a civil fine after hearing, a certified copy of the findings and the order may be entered by the Labor Commissioner in the office of the clerk of the superior court in any county in which the employer has property, or in which he, she, or it has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the state against the employer in the amount shown on the certified order.

(d) A judgment entered pursuant to the procedure described in either subdivision (c) or (i) of this section bears the same rate of interest and has the same effect as other judgments, and is given the same preference allowed by the law on other judgments rendered for claims for taxes.

(e) A cited employer who appeals his, her, or its citation to the Labor Commissioner and fails to appear at the time and place of the hearing is deemed to have withdrawn his, her, or its appeal, and the citation constitutes a final order of the Labor Commissioner and is not subject to administrative review.

(f) Submittal of a written request by an employer for an informal hearing as provided in subdivision (a) of this section stays the time period in which to pay the fine.

(g) If the written request for an informal hearing as provided in subdivision (a) of this section is not submitted in writing to the Labor Commissioner within 15 business days after issuance of a citation, the cited employer is deemed to have waived his, her, or its right to a hearing.

(h) In lieu of contesting a citation, a cited employer may, within 15 business days after issuance of a citation, transmit to the office of the Labor Commissioner designated on the citation, the amount specified for the violation.

(i) If a cited employer does not request a hearing in accordance with subdivision (a) of this section, the Labor Commissioner may file a certified copy of the citation or proposed assessment of civil fine in the office of the clerk of the superior court in any county in which the employer has property, or in which he, she, or it has or had a place of business. The clerk, immediately upon the filing shall enter judgment for the state against the employer in the amount shown on the citation or proposed assessment of civil fine.

NOTE: Authority cited: Sections 55, 59, 95, and 98.8, Labor Code. Sections 11400.20, 11410.10, 11410.40, 11415.10(a), 11445.10(a), 11445.20(c) and (d), Government Code. Reference: 226.5 and 2064, Labor Code.

13692. Immediate Family Member Defined.

For purposes of subdivision (d) of Labor Code Section 2066, “immediate family member” means spouse, domestic partner, cohabitant, child, stepchild, grandchild, parent, stepparent, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent, great grandparent, brother, sister, half-brother, half-sister, stepsibling, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, or first cousin (that is, a child of an aunt or uncle).

NOTE: Authority cited: Sections 55, 59, 95, and 98.8 Labor Code. Reference: Section 2066(d), Labor Code.

13693. Action Against Bond, Inadequacy of Bond, Cancellation of Bond.

(a) If an employer fails to pay wages, interest on wages, fringe benefits, or violates Section 351 or 353 of the Labor Code and an employee is damaged thereby, the Labor Commissioner or the employee, who is damaged because of the employer’s failure to pay wages, interest on wages, gratuities or fringe benefits, may proceed against the employer’s surety bond by taking whatever action he or she deems appropriate to obtain the unpaid wages, interest on wages, fringe benefits, or gratuities from the bond.

(b) If the Labor Commissioner or an employee who is damaged because of the employer’s failure to pay wages, interest on wages, gratuities, or fringe benefits proceeds against the surety bond and payment is made therefrom to the Labor Commissioner or the employee, the employer shall take all steps and actions necessary to ensure that a surety bond which meets all of the requirements set forth in paragraphs (1) and (2) of subdivision (b) of Section 13682 of this subchapter 11, including the required principal sum, is continuously in place so that there is not a break at anytime in the continuity of the protection afforded by the bond. If the employer at any time fails to provide a surety bond that meets all of the requirements of paragraphs (1) and (2) of subdivision (b) of Section 13682 of this subchapter 11, the Labor Commissioner may suspend or revoke the employer’s registration, or deny his, her or its application for a registration.

(c) If the surety bond required by Labor Code Section 2055 is cancelled or terminated, the employer may not conduct any business until he, she, or it obtains a new surety bond that meets all of the requirements of paragraphs (1) and (2) of subdivision (b) of Section 13682 of this subchapter 11, and files a copy with the Labor Commissioner.

(d) To ensure that the purpose of the bond is fulfilled, the Labor Commissioner will retain the original of the bond in his or her possession for no less than three years after the employer ceases engaging in the business of car washing and polishing.

NOTE: Authority cited: Sections 55, 59, 95, and 98.8, Labor Code, Section 11415.50(a) Government Code. Reference: Section 2055, Labor Code.